IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4189 OF 2006

Vijay Chagan More .. ..Applicant

Versus

The State of Maharashtra & Ors. .. ..Respondents

Mr.Rishi Bhuta for applicant

Mr.Y.M.Nakhwa, APP for State

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5TH DECEMBER, 2006

P.C.:

1. The applicant has been arrested on 22nd August 2006 in connection with C.R.No.363 of 2006 registered by Sakinaka Police Station. The offences alleged are punishable under Sections 307, 324, 504 of I.P.C. read with Section 37(i) and 135 of Bombay Police Act.

2. It is true that applicant had approached this Court for bail earlier but the said application was

withdrawn with liberty to file a fresh application before the trial court.

3. Accordingly the fresh application was filed but has been rejected on 15.11.2006.

4. The case of the prosecution is that the applicant was employed in a company near Sakinaka and he was working in despatch department. The complainant is a co-employee. On the relevant date i.e. 22nd August 2006, it is alleged that victim Subhash Gaikwad was sitting at reception counter. At that time, applicant came there armed with a knife. He abused the victim and gave a blow on his neck. Thereafter, the complainant was also assaulted. It is alleged that when the applicant was assaulting Subhash Gaikwad he shouted for help and another employee Parshuram came there and caught hold of the applicant and snatched the knife from his hand. The victim was removed to hospital and has been now discharged after treatment. The investigations are complete and the charge-sheet is filed. The knife has been recovered at the instance of the applicant.

4. The application has been rejected by the learned

Judge mainly on the ground that the incident took place because of rivalry after Union Election. The applicant and the victim belonged to rival groups and therefore applicant assaulted him. The victim and the applicant working in the same company. The applicant would resume duties after release and it is likely that the prosecution witnesses would be threatened.

5. The learned Judge does not dispute that the applicant has no antecedents. He is permanent resident of Navi Mumbai but bail has been denied because the possibility of threatening the witnesses cannot be ruled out.

6. On the last occasion, Mr. Bhuta appearing for the applicant sought adjournment for taking instructions. Today, he makes a statement that the applicant upon release would resign his job with DIC Company, Chandivali Farm House Road, Sakinaka, Mumbai. He further states that applicant if released on bail would not enter Mumbai City and Suburban Districts.

7. In such circumstances, the apprehension expressed by the prosecution before the trial court does not

survive. The investigations are complete and charge-sheet is filed. This is a fit case to enlarge the applicant on bail. Hence, the following order :

ORDER :

(i) The applicant arrested in connection with C.R.No.363 of 2006 registered with Sakinaka Police Station, Mumbai shall be enlarged on bail in the sum of Rs.15,000/= with one or two local sureties in the like sum;

(ii) The applicant shall report to Rabale Police Station, Navi Mumbai once in a week till the trial is concluded.

(iii) The applicant shall not enter Mumbai City and Mumbai Suburban Districts save and except on the dates fixed for trial.

(iv) The applicant shall not leave Navi Mumbai without prior permission of the trial court.

(v) The applicant shall furnish his address to

the Investigating Officer where he proposes to reside after bail and during pendency of the trial. The applicant shall not change his residence without prior intimation to the Investigation Agency;

(vi) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(vii) The applicant shall cooperate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(viii) Any observation/s made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(ix) Application is disposed of in above terms.

(S.C.Dharmadhikari, J.)